

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**Paul RICHARDSON,**

**Plaintiff,**

**v.**

**SHERIFF Van PEAVY, *et. al*,**

**Defendants.**

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**CIVIL ACTION NO. 5:09-CV-33 (MTT)**

**ORDER**

This matter is before the Court on the Recommendation to Grant (the “Recommendation”) (Doc. 28) of United States Magistrate Judge Charles H. Weigle. The Magistrate Judge, having reviewed Defendant Deborah Futch’s Motion for Summary Judgment (Doc. 22), recommends granting the motion on the Plaintiff’s claims against Futch because there is no evidence that the Plaintiff’s toothache was a serious medical need or that Futch acted with deliberate indifference. Defendant Sheriff Van Peavy also filed a Motion for Summary Judgment (Doc. 24). The Magistrate Judge recommends granting the motion on the claims against Peavy because a supervisor can only be held liable pursuant to 42 U.S.C. § 1983 if he personally participated in the constitutional violation and the Plaintiff failed to present evidence that Peavy personally participated in the alleged unconstitutional conduct. The Plaintiff did not file an objection to the Recommendation.

The Court has reviewed the Recommendation, and the Recommendation is adopted and made the Order of this Court. Both Motions for Summary Judgment (Docs. 22 & 24) are **GRANTED**.

**SO ORDERED**, this the 19<sup>th</sup> day of January, 2011.

S/ Marc T. Treadwell  
MARC T. TREADWELL, JUDGE  
UNITED STATES DISTRICT COURT